

REMARKS

Claims 1-9, 11-22 and 24-34 remain in this application, with Claims 1, 14, 27, 31, 32, 33 and 34 being in independent form. By the present amendment, Claims 1, 3, 6, 8-9, 11-14, 16, 18-19, 21-22, 24-28, 30, 32-34 have been amended and Claim 31 has been cancelled. Adequate support for the amendments is provided in the specification and in the figures. No new matter or issues are believed to be introduced by the amendments.

In the Advisory Action mailed on July 12, 2005, Claims 19, 11-22 and 24-34 were rejected in view of the previous Office Action of March 24, 2005, in which the above claims were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,249,008, issued to Bunte et al. ("Bunte et al."). Applicants have amended independent Claims 1, 14, 27 and 32 to better define Applicants' invention. Claim 31 has been cancelled.

It is Applicants' belief that independent Claims 1, 14, 27, 32, 33 and 34 as presented patentably distinguish Applicants' invention over the disclosure of Bunte et al., taken alone or in any proper combination. In particular, Applicants' Claims 1, 14, 27, 32, 33 and 34 recite a method, systems, a computer-readable medium, and a computer signal transmission which are functionally different than what is disclosed by Bunte et al., as emphasized by the portion stated below. Hence, the subject matter of Claims 1, 14, 27, 32, 33 and 34 is not anticipated by the disclosure of Bunte et al.

Applicants' Claim 1 recites "evaluating at least one of the first and second sets of pixel image data after the consecutive imaging and prior to performing a decode attempt on the first and second sets of pixel image data; selecting at least one of the first and second sets of pixel image data in accordance with the evaluation; and decoding pixel

image data from the selected set of pixel image data that corresponds to the optical code.”

Claims 14, 27, 32, 33 and 34 recite similar subject matter, with the evaluating step being performed after the consecutive imaging, and the evaluating and/or selecting steps being performed before the step of performing a decode attempt on the first and second sets of pixel image data. The term “pixel image data” is used to emphasize the use of image data as defined in the specification of the present application on page 10, line 18, as an array pixel signals corresponding to sensed light.

Bunte et al. does not disclose or suggest at least the emphasized limitations of Claims 1, 14, 27, 32, 33 and 34. In accordance with the Examiner’s characterization of Bunte et al. as described in the Advisory Action of July 12, 2005, Bunte et al. describes “a step of reading an optical code, among other steps, [using] a plurality of image settings to perform a successful code reading based on the result of a previous attempt. If a first reading attempt fails to obtain a valid read, then the reader successively selects a second image setting which is different from the first reading attempt until a valid read is obtained”, thus performing a second reading attempt. Applicants would like to emphasize that Bunte et al. determines whether the reading attempt obtained is valid read by evaluating the results of a decode operation performed on the read optical code.

The evaluating step of the first read attempt described by Bunte et al. is performed based on the results of the first imaging and before performing the second imaging. Accordingly, the evaluating step is not performed “after the consecutive imaging”, as recited in Applicants’ independent Claims 1, 14, 27, 32, 33, 34 and 35. Furthermore, the evaluation step for the first read attempt described by Bunte et al. is performed after performing the decode attempt on the first set of pixel image data, and the evaluation step

for the second read attempt is performed after performing a decode attempt on the first and second sets of pixel image data. Accordingly, the evaluating step is not performed “prior to performing a decode attempt on the first and second sets of pixel image data” as recited in Applicants’ independent Claims 1, 14, 27, 32, 33, 34 and 35.

Accordingly, withdrawal of the rejection under 35 U.S.C. §102(b) with respect to independent Claims 1, 14, 27, 32, 33 and 34 and allowance thereof are respectfully requested. Dependent Claims 2-9 and 11-13; 15-22 and 24-26; and 28-30 depend from Claims 1, 14 and 27, respectively, and therefore include the limitations of Claims 1, 14 and 27. Accordingly, for at least the same reasons given for Claims 1, 14 and 27, Claims 2-9, 11-13, 15-22, 24-26 and 28-30 are believed to contain patentable subject matter. Accordingly, withdrawal of the rejection under 35 U.S.C. §102(b) with respect to Claims 2-9, 11-13, 15-22, 24-26 and 28-30 and allowance thereof are respectfully requested.

In view of the foregoing amendments and remarks, it is respectfully submitted that all claims presently pending in the application, namely, Claims 1-9, 11-22, 24-30 and 32-34, are believed to be in condition for allowance and patentably distinguishable over the art of record.

If the Examiner should have any questions concerning this communication or feels that an interview would be helpful, the Examiner is requested to call Applicants' undersigned attorney at (631) 501-5706.

Respectfully submitted,



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